

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JAYTHANIEL YOUNG,

Plaintiff,

v.

PIERCE COUNTY CORRECTIONS et al.,

Defendant.

CASE NO. 3:22-cv-05382-DGE

ORDER ON REPORT AND
RECOMMENDATION

On May 25, 2022, Plaintiff filed a proposed civil complaint and an application to proceed *in forma pauperis* (“IFP”). (Dkt. No. 1.) The Court screened Plaintiff’s proposed complaint, identified deficiencies in the proposed complaint, and directed Plaintiff to file an amended complaint curing several deficiencies, including a failure to name proper defendants or allege personal participation of defendants in the alleged wrongdoing. (Dkt. No. 3.) The Court granted Plaintiff leave to amend his complaint, and re-noted Plaintiff’s application to proceed IFP. (*Id.*) On August 12, 2022, Plaintiff filed a proposed amended complaint. (Dkt. No. 4.)

1 On September 7, 2022, United States Magistrate Judge David W. Christel issued a Report
2 and Recommendation (“R&R”) recommending that the Court dismiss Plaintiff’s complaint
3 without prejudice for failure to state a claim and deny Plaintiff’s IFP application. (Dkt. No. 8.)
4 Judge Christel found that Plaintiff had failed to correct the deficiencies present in his original
5 complaint and recommended that the Court deny Plaintiff further leave to amend. (*Id.*)

6 On September 21, 2022, Plaintiff filed objections to Judge Christel’s R&R. (Dkt. No. 9.)
7 Plaintiff requested an additional 30 days to correct the deficiencies in his complaint, stating that
8 his knowledge of the law is limited and that he is hoping to secure legal assistance shortly. (*Id.*)
9 On September 23, 2022, Plaintiff paid the filing fee.


10 The Court construes Plaintiff’s objections to the R&R as a motion to amend his
11 complaint. Pursuant to Rule 15(a)(1) of the Federal Rules of Civil Procedure,

12 A party may amend its pleading once as a matter of course within:
13 (A) 21 days after serving it, or
14 (B) if the pleading is one to which a responsive pleading is required,
21 days after service of a responsive pleading or 21 days after service
of a motion under Rule 12(b), (e), or (f), whichever is earlier.

15 Plaintiff filed the Motion to Amend prior to service. Further, “[c]ourts are free to grant a
16 party leave to amend whenever ‘justice so requires,’ Fed. R. Civ. P. 15(a)(2), and request for
17 leave should be granted with ‘extreme liberty.’” *Moss v. U.S. Secret Service*, 572 F.3d 962, 972
18 (9th Cir. 2009) (quoting *Owens v. Kaiser Found. Health Plan, Inc.*, 244 F.3d 708, 712 (9th Cir.
19 2001)). “Dismissal without leave to amend is improper unless it is clear, upon *de novo* review,
20 that the complaint could not be saved by any amendment.” *Polich v. Burlington Northern, Inc.*,
21 942 F.2d 1467, 1472 (9th Cir. 1991); *see also Moss v. U.S. Secret Service*, 572 F.3d at 972;
22 *Gompper v. VISX, Inc.*, 298 F.3d 893, 898 (9th Cir. 2002).

1 Here, Plaintiff alleges that he received inadequate medical treatment for cancer while in
2 custody, acknowledges the deficiencies in his complaint, and seeks additional time to address
3 them. For all the reasons, the Court declines to adopt the Report and Recommendation (Dkt. No.
4 8.) and GRANTS Plaintiff leave to amend his complaint. Plaintiff shall file his amended
5 complaint, which shall address the deficiencies previously identified, within 30 days of this
6 order.

7 Dated this 16th day of November, 2022.

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David G. Estudillo
United States District Judge